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**Compass Group North America and its subsidiaries
Morrison Management Specialists and Morrison
Senior Dining and American Federation of
State, County and Municipal Employees, AFL–
CIO, and its Local 2568. Case 7–CA–51876**

August 26, 2010

DECISION AND ORDER

BY CHAIRMAN LIEBMAN AND MEMBERS SCHAUMBER
AND HAYES

On November 19, 2009, the two sitting members of the Board issued a Decision and Order in this proceeding, which is reported at 354 NLRB No. 106.¹ Thereafter, the General Counsel filed an application for summary enforcement. On June 17, 2010, the United States Supreme Court issued its decision in *New Process Steel, L.P. v. NLRB*, 130 S.Ct. 2635, holding that under Section 3(b) of the Act, in order to exercise the delegated authority of the Board, a delegatee group of at least three members must be maintained. Thereafter, the Acting General Counsel filed a motion to withdraw the application for summary enforcement, and the court of appeals granted the motion.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.²

The Acting General Counsel seeks default judgment in this case pursuant to the terms of a settlement agreement. As described more fully in the above-referenced decision, the Respondent and the Union entered into a settlement agreement, which was approved by the Regional Director for Region 7 on June 12, 2009. Among other things, the settlement agreement required the Respondent to (1) furnish the Union with the information it requested; (2) remit to the Union all dues and initiation fees that it had deducted from the paychecks of the unit employees, totaling \$8,406.85, plus \$100 in interest; and

(3) post a notice to employees regarding the complaint allegations.

The settlement agreement also contained the following provision:

The Charged Party agrees that in case of noncompliance with any of the terms of this settlement agreement by the Charged Party, and after 14 days notice from the Regional Director of the National Labor Relations Board of such noncompliance without remedy by the Charged Party, the Regional Director may reissue the complaint in this matter. The General Counsel may then file a motion for default judgment with the Board on the allegations of the complaint. The Charged Party understands and agrees that the allegations of the reissued complaint may be deemed to be true by the Board and its answer to such complaint shall be considered withdrawn. The Charged Party also waives the following: (a) filing of answer; (b) hearing; (c) administrative law judge's decisions; (d) filing of exceptions and briefs; (e) oral argument before the Board; (f) the making of findings of fact and conclusions of law by the Board; and (g) all other proceedings to which a party may be entitled under the Act or the Board's Rules and Regulations. On receipt of said motion for default judgment, the Board shall issue an order requiring the Charged Party to show cause why said motion of the General Counsel should not be granted. The Board may then, without necessity of trial or any other proceeding, find all allegations of the complaint to be true and make findings of fact and conclusions of law consistent with those allegations adverse to the Charged Party, on all issues raised by the pleadings. The Board may then issue an order providing a full remedy for the violations found as is customary to remedy such violations. The parties further agree that the Board's order and U.S. Court of Appeals judgment may be entered thereon ex parte.

By letter dated July 6, 2009, the compliance officer for Region 7 advised the Respondent that the Region had not yet received \$100 in dues and fees that remained to be paid to the Union or information demonstrating that the Respondent had posted the required notice to employees. In this letter, the compliance officer also noted the Union's allegations that the Respondent was not in compliance with the settlement agreement provisions concerning dues withholding and furnishing the Union with requested information, requesting the Respondent's response to these allegations by July 17, 2009. By letter dated July 24, 2009, the Regional Director for Region 7 again reminded the Respondent of its obligations to (1) post signed and dated copies of the notice and inform the

¹ Effective midnight December 28, 2007, Members Liebman, Schaumber, Kirsanow, and Walsh delegated to Members Liebman, Schaumber, and Kirsanow, as a three-member group, all of the powers of the National Labor Relations Board in anticipation of the expiration of the terms of Members Kirsanow and Walsh on December 31, 2007. Thereafter, pursuant to this delegation, the two sitting members issued decisions and orders in unfair labor practice and representation cases.

² Consistent with the Board's general practice in cases remanded from the courts of appeals, and for reasons of administrative economy, the panel includes the members who participated in the original decision. Furthermore, under the Board's standard procedures applicable to all cases assigned to a panel, the Board Members not assigned to the panel had the opportunity to participate in the adjudication of this case at any time up to the issuance of this decision.

Region when and where they were posted; (2) remit \$100 in interest to Region 7; and (3) furnish the Union with the requested information. In this letter, the Regional Director also warned the Respondent that its failure to comply within 14 days will result in the Regional Director setting aside the settlement agreement, reissuing the complaint, and filing a motion for default judgment. The Respondent failed to comply. Accordingly, pursuant to the terms of the noncompliance provisions of the settlement agreement, the Regional Director issued an Order Setting Aside Settlement Agreement on September 4, 2009, and reissued the complaint on September 8, 2009.

On September 18, 2009, the General Counsel filed a Motion for Default Judgment with the Board. Thereafter, on September 24, 2009, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed no response. The allegations in the motion are therefore undisputed.

Ruling on Motion for Default Judgment

According to the uncontroverted allegations in the motion for default judgment, the Respondent has failed to comply with the terms of the settlement agreement by failing to furnish the Union with requested information,

pay the agreed-upon interest payment, and post an appropriate notice. Consequently, pursuant to the noncompliance provisions of the settlement agreement set forth above, we find that all of the allegations in the reissued complaint are true, and we grant the Acting General Counsel's Motion for Default Judgment.

Accordingly, we adopt the findings of fact, conclusions of law, remedy, and Order set forth in the decision and order reported at 354 NLRB No. 106, which is incorporated herein by reference.

Dated, Washington, D.C. August 26, 2010

Wilma B. Liebman, Chairman

Peter C. Schaumber, Member

Brian E. Hayes, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD